

STATE OF SOUTH CAROLINA
BEFORE THE PUBLIC SERVICE COMMISSION

Docket No. 2019-184-E

In re:)	
South Carolina Energy Freedom)	
Act (H.3659) Proceeding to)	
Establish Dominion Energy)	
South Carolina, Incorporated's)	SOUTH CAROLINA SOLAR BUSINESS
Standard Offer, Avoided Cost)	BUSINESS ALLIANCE, INC.'S MOTION
Methodologies, Form Contract)	TO COMPEL DOMINION ENERGY
Power Purchase Agreements,)	SOUTH CAROLINA, INCORPORATED'S
Commitment to Sell Forms,)	RESPONSES TO FIRST SET OF
and Any Other Terms or)	INTERROGATORIES AND REQUESTS FOR
Conditions Necessary)	PRODUCTION, AND MOTION TO EXTEND
(Includes Small Power Producers)	THE TIME TO SUPPLEMENT DIRECT
as Defined in 16 United States)	TESTIMONY
Code 796, as Amended))	

South Carolina Solar Business Alliance, Inc.’s Motion to Compel Dominion Energy South Carolina, Incorporated’s Responses to First Set of Interrogatories and Requests for Production, and Motion to Extend the Time to Supplement Direct Testimony

South Carolina Solar Business Alliance, Inc. ("SCSBA"), in accordance with Rule 103-833 of the Rules of the Public Service Commission of South Carolina ("Commission") (S.C. Code Regs. 103-833), South Carolina Rule of Civil Procedure ("SCRCP") Rule 37, and S.C. Code Ann § 58-41-20(j), hereby moves this Commission to compel Dominion Energy South Carolina, Incorporated ("DESC") to respond fully to SCSBA's First Set of Interrogatories and Requests for Production served on DESC on July 31, 2019 ("Motion to Compel"), and moves this Commission to extend the time in which SCSBA may supplement its direct testimony ("Motion to Extend Time") until seven (7) days after SCSBA receives complete discovery responses from DESC.

BACKGROUND

On July 31, 2019, SCSBA served its First Set of Interrogatories and Requests for Production on DESC. See Exhibit 1. DESC served its responses on SCSBA on August 20, 2019.

See Exhibit 2 (without responsive documents). On September 13, 2019, SCSBA objected via email to certain of DESC's responses as incomplete. See Exhibit 3. SCSBA and DESC then verbally discussed the responses that SCSBA considered incomplete. In response to these discussions, DESC provided supplemental responses to SCSBA's First Set of Interrogatories and Requests for Production, along with some responses to SCSBA's Second Set of Interrogatories and Requests for Production on September 16, 2019. See Exhibit 4. A copy of SCSBA's Second Set of Interrogatories and Requests for Production are attached as Exhibit 5. (Note that DESC's responses to SCSBA's Second Set of Interrogatories and Requests for Production are not yet due, and are not a part of this Motion to Compel except to the extent that they may supplement DESC's responses to SCSBA's First Set of Interrogatories and Requests for Production.)

After reviewing the responses provided by DESC on September 16, 2019, SCSBA explained the continuing deficiencies to DESC via a telephone call. SCSBA explained to DESC that SCSBA urgently required the requested information in order for SCSBA to complete its direct testimony, which is due Monday, September 23, 2019. SCSBA further explained that in light of both DESC's continuing failure to provide the needed information, and the pressing September 23, 2019 deadline, SCSBA is now forced to file this Motion to Compel. Therefore, the parties have attempted to resolve this issue in good faith, but have done so without success.

ARGUMENT

As such, SCSBA files this Motion to Compel to address the remaining outstanding discovery responses as set forth below. DESC's responses as outlined below are deficient under SCRCF Rule 37 and under S.C. Code Regs. 103-833. Additionally, DESC's responses are deficient under S.C. Code Ann. § 58-41-20(j), which requires a utility's avoided cost filing to be

“reasonably transparent” such that “underlying assumptions, data, and results can be independently reviewed and verified by the parties and the commission.” DESC’s responses are insufficient in failing to provide the documents expressly requested. Further, DESC has failed to produce documents requested that are sufficient for DESC to provide an avoided cost filing that is “reasonably transparent,” in that the documents provided are insufficient to allow DESC’s avoided cost filing to be “independently reviewed and verified” as required by S.C. Code Ann. § 58-41-20(j). Additionally, the failure to provide this information impairs SCSBA’s ability to prepare its own direct testimony to the Commission, which is due September 23, 2019, and ultimately impairs SCSBA’s ability to meet its burden of proof in this proceeding, as is explained below in more detail. In light of these DESC failings, SCSBA also hereby moves that the time for SCSBA to supplement its direct testimony be extended until seven (7) days after it receives complete discovery responses from DESC for the below-referenced Requests for Production, which would allow SCSBA time to receive and review complete responses to its discovery requests and supplement its direct testimony accordingly.

SCSBA brings this motion to compel a full response from DESC with respect to the following specific Requests for Production.

1. DESC’s Response to Request for Production 2.b. is incomplete and insufficient.

First, DESC has not fully responded to SCSBA’s Request for Production 2.b. SCSBA’s Request for Production 2.b. (“Request 2.b.”) requested the following:

2. With respect to any production cost modeling or other modeling used in support of any Avoided Cost Methodology or Calculation considered or proposed by You in this docket, please produce all documentation relating to:

...

b. The marginal cost of generation (in \$/MWh) for each hour over the avoided cost period analyzed, under (if applicable) both the base case and the change case(s);

On August 20, 2019 (See Exhibit 2) DESC responded to Request 2.b. as follows:

See files "Avoided_Cost_seed1_Solar.mrg, Avoided_Cost_seed2_Solar.mrg, Avoided_Cost_seed3_Solar.mrg, Avoided_Cost_seed4_Solar.mrg, Avoided_Cost_seed5_Solar.mrg, Avoided_Cost_seed6_Solar.mrg, Avoided_Cost_seed7_Solar.mrg, Avoided_Cost_seed8_Solar.mrg, Avoided_Cost_seed9_Solar.mrg, Avoided_Cost_seed10_Solar.mrg." These files contain confidential and sensitive information and is being provided pursuant to the Confidentiality Agreement executed between SCSBA and DESC on August 19, 2019.

DESC did not object to Request 2.b in its August 20 response. (See Exhibit 2).

SCSBA then raised DESC's deficiency as to Request 2.b. in its September 13, 2019 email (See Exhibit 3). SCSBA requested the following:

Request 2b requested hourly production cost model data. The response to 2b simply refers to a long list of data files as follows: "Avoided_Cost_seed1.Solar.mrg", "Avoided_Cost_seed2.Solar.mrg", "Avoided_Cost_seed3.Solar.mrg" etc. (one of which is displayed below), with no further explanation.

- Please provide a detailed explanation of the data structure in the Avoided_Cost_seed1.Solar.mrg file.
- Please explain the difference between the numerous Avoided_Cost_seed.mrg files.
- Please provide an explanation of how the Avoided_Cost_seed.mrg files were used as inputs to the also-unexplained Excel files in each of the folders in the "Avoided Cost Calculations CONFIDENTIAL" folder.
- Please provide the hourly marginal production cost data in MS Excel format.

In DESC's September 16, 2019 reply letter (Exhibit 4) as to Request 2.b., DESC provided the following:

a. The format of the *.mrg files is as follows:

Date, Transmission Area, Day of Week, 12 hourly marginal cost values

0101201	1	3	29.2	29.3	29.2	25.3	30.7	29.6	23.1	29.4	19.9	29.5	29.4	29.6
0101202	1	3	30.0	29.7	29.6	29.6	29.9	30.0	30.9	39.7	39.7	39.7	30.7	39.7
0102201	1	4	19.9	19.9	19.9	19.9	19.9	21.0	21.5	23.4	21.1	19.9	17.8	
0102202	1	4	18.1	17.2	17.8	17.8	17.4	18.9	19.9	19.9	19.9	19.9	18.5	
0103201	1	5	18.1	18.1	18.1	18.1	18.1	18.7	18.1	20.3	18.8	17.6	17.3	17.2
0103202	1	5	17.1	17.3	18.2	18.1	19.5	19.9	19.9	19.9	19.9	19.9	18.1	
0104201	1	6	18.1	17.7	17.4	17.2	17.2	17.7	18.1	18.1	19.4	18.4	18.5	18.8

The date is mmddyy format plus 1 for hours 1-12 and a 2 for hours 13-24 consecutively. The first row in the above excerpt has a date of 0101201 or Jan 1, 2020. The date ends with a 1 indicating hours 1-12. The only transmission area of interest is 1. All data with a transmission area of .2 can be ignored.

b. The avoided costs are modeled 10 times using 10 different seeds then the results are averaged to produce the avoided costs. For each avoided cost run there are 10 control files labeled "Avoided_Cost_Seed1_Solar.ctl" through "Avoided_Cost_Seed10_Solar.ctl." Each run produces a unique set of marginal costs which are labeled "Avoided_Cost_Seed1_Solar.mrg" through "Avoided_Cost_Seed10_Solar.mrg."

c. The files provided are in their native format. Consistent with our past practice and with the provision of information to other parties, as well as your instructions in paragraph 14 of both your first and second discovery requests, the file has been previously provided in its native electronic format. With respect to the request for hourly marginal cost data in MS Excel format, the Company does not maintain this data in that format.

DESC's response to SCSBA's Request 2.b. is incomplete in DESC's failure to provide complete information in a meaningful and understandable format. DESC has failed to provide the requested Base Case marginal cost values, which prohibits SCSBA from analyzing the avoided costs on an hourly basis. DESC provided final avoided cost information in one of its Excel workbooks, but this information had already aggregated the hourly values into averages for each of the four time periods. SCSBA's request specifically asked for "[t]he marginal cost of generation (in/MWh) for each hour over the avoided cost period analyzed, under (if applicable) both the base case and the change case(s)." SCSBA requests that this Commission compel DESC to provide a

complete response to Request 2.b., including the Base Case marginal cost values and the hourly values requested.

2. DESC's Response to Request for Production 2.c. is incomplete and insufficient.

Second, DESC has not responded fully to SCSBA's Request for Production 2.c. ("Request 2.c."). SCSBA's Request 2.c. requested the following:

2. With respect to any production cost modeling or other modeling used in support of any Avoided Cost Methodology or Calculation considered or proposed by You in this docket, please produce all documentation relating to:

...

c. All forecast(s) of commodity prices used in production cost modeling, including but not limited to gas, coal, oil, power, capacity, and emissions

Exhibit 1, p. 6. On August 20, 2019 (See Exhibit 2) DESC responded to Request 2.c. as follows:

See Spreadsheet "CONFIDENTIAL Avoided Cnst Fuels.xlsx." This file contains confidential and sensitive information and is being provided pursuant to the Confidentiality Agreement executed between SCSBA and DESC on August 19, 2019.

DESC did not object to Request 2.c. On September 13, SCSBA raised the issue of the deficiency as to Request 2.c. (See Exhibit 3). On September 16, 2019 (See Exhibit 4), DESC provided the following supplemental response to Request 2.c.:

Please see forecasts for nuclear fuel, NOx and SO2 in attached "CONFIDENTIAL Avoided_Cost_Fuels.xlsx." Exhibit (JVVN-1) is the resource plan study that was developed on or about October 2018 and filed with the Commission in February 2019 and reflects escalation rates for base gas prices at the time the resource plan study was developed. The avoided cost calculation was performed and Mr. Neely's testimony was filed in August 2019. As such the file "CONFIDENTIAL_Avoided_Costs_Fuels.xlsx" reflects the escalation rates for base gas prices at that time.

The confidential documents referenced in the responses to Requests 2.b. and 2.c. are identified as attached Exhibit 6, a copy of which will be filed under seal with the Commission due to DESC's assertion of Confidentiality of the documents.

The spreadsheet (See Exhibit 6) provided as DESC's response to Request 2.c. included only gas, coal, and oil, and failed to include any explanation as to how avoided cost modeling was conducted without prices for the other commodities requested. The supplemental responses provided by DESC to Request 2.c. on September 16, 2019 (See Exhibit 4) provided some additional emissions costs, but did not add either "power" or "capacity" which are explicitly requested in Request 2.c. SCSBA requests that this Commission compel DESC to provide the requested information regarding "power" and "capacity."

As described above, DESC has failed to provide the information expressly requested as to Requests 2.b. and 2.c. DESC's responses are also insufficient under SCRCF Rule 37, under S.C. Code Regs. 103-833, and S.C. Code Ann § 58-41-20(j), the last of which provides that

[e]ach electrical utility's avoided cost filing must be reasonably transparent so that underlying assumptions, data, and results can be independently reviewed and verified by the parties and the commission.

DESC has failed to meet its obligation to produce documents requested sufficient to provide an avoided cost filing that is "reasonably transparent" and that allows SCSBA to independently review and verify the avoided cost filing. DESC's response fails to include sufficient information for the response to be meaningful.

3. The Commission should compel DESC to fully respond to the Requests for Production and should extend the time for SCSBA to supplement its direct testimony.

Other public service commissions have afforded relief similar to that requested by SCSBA here. *See, e.g., In the Matter of the Filing of Advice Notice No. 69 by Socorro Electric Coop., Inc.*, 18-00383-UT, 2019 WL 1773342 (NMPRC Apr. 17, 2019)(compelling production of cost of service model in executable electronic format); *In the Matter of Application by Virginia Electric & Power Co., d/b/a Dominion N. Carolina Power*, E-22, 2016 WL 7447616 (N.C. Util. Comm'n

Dec. 22, 2016)(approving a settlement in which the utility agreed to assess reasonable additional cost of service model functionalities that can be produced in an Excel spreadsheet-based format and produce such spreadsheets); *In the Matter of the Pet. of N.W. Energy*, D2014.4.43, 2014 WL 4163021 (Mont.P.S.C. Aug. 21, 2014)(compelling production of additional data requests, including input files, output files, identification of all data sources and source documents, in electronic format and access to the PowerSimm model for an understanding of the calculation of the avoided cost rate); *In Re SBC Commun. Inc.*, 05-02-027, 2005 WL 1252602 (Cal.P.U.C. May 20, 2005)(compelling production of requisite worksheets associated with calculations and two days of access to the electronic models and worksheets in counsel's office on a confidential basis); *In the Matter of the Jt. Application of Sprint Commun. Co., L.P., United Tel. Co. of Kansas, United Tel. Co. of E. Kansas, United Tel. Co. of S. C. Kansas, and United Tel. Co. of S.E.*, 97-SCCC- 149-GIT, 1998 WL 35863518 (Kan.S.C.C. Mar. 18, 1998)(compelling production of information in electronic format so that the parties could utilize the information by modifying inputs).

Further, DESC’s failure to meet its discovery obligations promises to make it difficult, if not impossible, for Intervenors to provide the Commission an alternative rate proposal. In Order No. 2018-322, the Commission rejected various intervenors’ challenges to SCE&G’s proposed avoided cost rates, based on “the absence of a viable alternative [rate] proposal being presented by any other party.” Order No. 2018-322 at 15. On reconsideration, the Commission clarified that in order to prevail, Intervenors would have to present “probative evidence of a computed factor” for rates “as opposed to a mere concept for deriving a factor,” as ORS had proposed. Order No. 2018-708 at 3. Intervenors pointed out that because of SCE&G’s inadequate discovery responses,

they lacked sufficient evidence to calculate such a computed factor, but the Commission rejected those arguments based on the fact that Intervenors had not filed motions to compel SCE&G to provide adequate discovery responses. Order No. 2018-322 at 16, Order No. 2018-708 at 3.¹

Here, DESC's failure to provide adequate responsive information about their production cost modeling and related data makes it prohibitively difficult for SCSBA to provide alternative calculations of avoided energy rates, despite clear deficiencies in DESC's calculations. If DESC is not compelled to provide adequate discovery, and the Commission hews to its earlier ruling as to the parties' burdens of proof, then the Commission will deprive SCSBA of any chance of prevailing on this issue.

Additionally, the failure to provide this information impairs SCSBA's ability to provide its direct testimony to the Commission. SCSBA requests that the time for SCSBA to supplement its direct testimony be extended until seven (7) days after it receives complete discovery responses from DESC, which will allow SCSBA adequate time to supplement its direct testimony accordingly.

WHEREFORE, SCSBA prays that the Commission grant the Motion to Compel and the Motion to Extend Time in which to supplement direct testimony.

-Signature on following page-

¹ SCSBA maintains that these Orders were wrongly decided and have a pending appeal to the South Carolina Supreme Court, with oral argument scheduled for Sept. 26, 2019.

Respectfully submitted this 19th day of September 2019.

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**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2019-184-E**

IN RE: South Carolina Energy Freedom Act)
(H.3659) Proceeding to Establish)
Dominion Energy South Carolina,)
Incorporated's Standard Offer, Avoided)
Cost Methodologies, Form Contract)
Power Purchase Agreements,)
Commitment to Sell Forms, and Any)
Other Terms or Conditions Necessary)
(Includes Small Power Producers as)
Defined in 16 United States Code 796, as)
Amended) - S.C. Code Ann. Section 58-)
41-20(A))

CERTIFICATE OF SERVICE

This is to certify that I, Weston Adams, III, have this date served one copy of South Carolina Solar Business Alliance, Inc.'s Motion to Compel Dominion Energy South Carolina, Incorporated's Responses to First Set of Interrogatories and Requests for Production and Motion to Extend the Time to Supplement Direct Testimony in the above referenced matter to the person(s) named below by electronic mail, as shown below:

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